IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6696 of 1997
With
CIVIL APPLICATION No. 8914 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HAREN PANDYA - Petitioner(s)
Versus
STATE OF GUJARAT & 6 - Respondent(s)

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Appearance :
HL PATEL ADVOCATES for Petitioner(s) : 1,
MR PR ABICHANDANI, AGP for Respondent(s) : 1 - 5.
MR SB VAKIL for Respondent(s) : 6,
MR RS SANJANWALA for Respondent(s) : 7,

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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 15/09/2005

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

In this petition allotment of land bearing survey no. 21 block no. 17 situated at village Vasan to three trusts, namely (i) Samarpan Sewa Trust, (ii) Vaijnath Mahadev Trust and (iii) Vasan Hitvardhak Kelvani Mandal admeasuring 41,333 sq. mtrs., 12,612 sq. mtrs. and 16,676 sq. mtrs. respectively is challenged. It is averred that the said allotment is not at all in public interest and it is on account of favour shown by the former Chief Minister Shri Shankarsinh Vaghela, who was associated with these trusts. It is also the say of the petitioner that the trees situated on these lands have been illegally cut by the respondents connected with these trusts. It was, therefore, prayed that the office bearers of the said trusts be directed to replant the trees on these lands and the Government be directed to take back the possession of the lands by cancelling the allotment.

2. We have heard Mr. VH Patel, learned advocate for the petitioner, Mr. SH Sanjanwala, learned senior advocate for respondents no. 6 and 7 and Mr. PR Abichandani, Ld. AGP for respondents no. 1 to 5. We have also perused the record of the petition. It appears that after the petition was admitted to final hearing the

petitioner has expired. However, this being a public interest litigation, the Court can certainly take cognizance of it and if found proper to grant reliefs prayed therein.

3. Nonetheless the record further shows that with a view to regularization of the allotment the respondent trust was directed to pay regularization fee of Rs.35,01,050/- fixed by the Town Planning Department and it was informed to deposit the sum within 30 days and thereafter, the formal order for regularization was to be passed. That has not been done. The affidavit of Mr. Sunderdas H Kursija, the President of respondent no. 6 Trust dated 29th June, 2005 reveals that the trust has not taken any advantage pursuant to the said order nor has the trust paid the amount and got the regularization order. Additional affidavit filed by Mr. PS Pandya, Deputy Secretary, Revenue Department shows that the Cabinet Sub Committee in its meetings held on 8th and 9th July, 1999 resolved to cancel and revoke the resolution dated 10th September, 1997, which was with regard to allotment of land to respondent no. 6. In view of the same, now the land has reverted back to the Government. Thus, the complaint regarding illegal allotment does not survive.

3.1. So far felling of the trees is concerned, this Court by its interim order

dated 11th September, 1997 appointed Court Officer to act as Court Commissioner to be named by the Registrar and he was directed to visit and make panchnama of the site, to make videography/photography of the site and to produce the same in the Court. In view of the said interim order, Mr. PR Patel, the Law Officer attached to High Court of Gujarat visited the site, did the needful and submitted the report dated 25th September, 1997. The report shows that during visit to the site certain trees were found to have been cut. But now considering the changed circumstances and especially when the land has been reverted back to the Government, there is no need for us to grant prayer regarding replantation by concerned respondents. In short, in our view, this petition has become infructuous and it is dismissed as such. Rule is discharged.

In view of the above, Civil Application No. 8914 of 1997 does not survive and it is disposed of accordingly. Notice discharged.

[Kshitij R Vyas, J.]

[Akshay H Mehta, J.]

* Pansala.